

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

James Johannes Sharpe, et al.,

Plaintiffs,

v.

Case No. 2:13-cv-187

**Sierra Leone Ministry of Surveys,
Lands and Environment, et al.,**

Judge Michael H. Watson

Defendants.

ORDER

James Johannes Sharpe and Ubadire Nathaniel Nwoko ("Plaintiffs") initiated this breach of contract case on March 1, 2013. Thereafter, the Court referred the matter to Magistrate Judge Terence Kemp for an initial review. ECF No. 22.

Magistrate Judge Kemp issued a Report and Recommendation ("R&R") and ordered Plaintiffs to show cause. ECF No. 23. In response, Plaintiffs state that Magistrate Judge Kemp did not error in his findings. Resp. 1, 3, ECF No. 24. Instead, they note an adjusted damage total and their plan to respond to Judge Kemp's orders. *Id.* at 3.

Magistrate Judge Kemp notified the parties of their right to file objections to the R&R pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b). R&R 14–15, ECF No. 23. The R&R further specifically advised the parties that the failure to object to the R&R within fourteen days would result in a waiver of the right to *de novo* review by the District Judge as well as a waiver of the right to


appeal the decision of the District Court adopting the R&R. *Id.* at 15. The deadline for filing such objections has passed, and no objections were filed.

Plaintiffs have also moved for default judgment. ECF No. 27. Plaintiffs, did not, however, first obtain an entry of default as required under Federal Rule of Civil Procedure 55(a) prior to seeking a default judgment. Accordingly, the Court cannot enter a default judgment under Rule 55(b) at this juncture. *Brantley v. Runyon*, No. C-1-96-842, 1997 WL 373739, at *1 (S.D. Ohio June 19, 1997) ("In order to obtain a default judgment under Rule 55(b)(2), there must first be an entry of default as provided by Rule 55(a)." (citation omitted)); *cf. O.J. Distrib., Inc. v. Hornell Brewing Co., Inc.*, 340 F.3d 345, 352 (6th Cir. 2003) ("Rule 55 permits the clerk to enter a default when a party fails to defend an action as required. The court may *then* enter default judgment." (emphasis added)) (quoting *Weiss v. St. Paul Fire & Marine Ins. Co.*, 283 F.3d 790, 794 (6th Cir. 2002)).

Accordingly, having received no objections to Judge Kemp's findings, the R&R, ECF No. 23, is **ADOPTED** and Plaintiffs' motion for default judgment, ECF No. 27, is **DENIED WITHOUT PREJUDICE**.

The Clerk shall remove ECF Nos. 23 and 27 from the Civil Justice Reform Act motions report.

IT IS SO ORDERED.


MICHAEL H. WATSON, JUDGE
UNITED STATES DISTRICT COURT